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**Also Licensed in Utah & Colorado

March 16, 2007

Roger Warner
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RECEIVED
MAR 19 2007
Department of Water Resources
Eastern Region

Re: Applications for Ponds of Elliot Creek Ranch, LLC and Elliot Creek, LLC

Dear Roger:

Since you are the one we have spoken with on this matter, we thought we would forward these applications directly to you. We have enclosed five Applications for Permit, one on behalf of Elliot Creek Ranch, LLC, and four on behalf of Elliot Creek, LLC, two different companies, but for both of whom the engineering has been done by Anderson Engineering.

There are maps and charts attached to each application and we have also enclosed our check in the amount of \$500.00 for the filing fee which we computed as \$100.00 for each application.

If you find anything amiss, please let us know and we would happy to try supply anything missing or correct anything that needs to be corrected. We will of course appreciate anything that can be done to expedite the processing of these applications. Thank you for your kind attention to this matter.

Yours very truly,



Kent W. Foster

Enclosures



IDAHO SECRETARY OF STATE Viewing Business Entity

Ben Ysursa, Secretary of State

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[[Get a certificate of existence for ELLIOTT CREEK LLC](#)]

ELLIOTT CREEK LLC

425 S HOLMES
IDAHO FALLS, ID 83401

Type of Business: LIMITED LIABILITY COMPANY

Status: EXISTING 21 Jun 2006

State of Origin: IDAHO

Date of 21 Jun 2006

Origination/Authorization:

Current Registered Agent: SCOTT P ESKELSON
425 S HOLMES
IDAHO FALLS, ID 83401

File Number: W51967

Date of Last Annual Report:

Amendments:

[[Help Me Print/View TIFF](#)]

Amendment filed 21 Jun 2006 ARTICLES OF
ORGANIZATION

[View Image \(TIFF
format\)](#)

[Idaho Secretary of State's Main Page](#)

[State of Idaho Home Page](#)

Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov

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ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

2006 JUN 21 PM 3:57

SECRETARY OF STATE
STATE OF IDAHO

1. The name of the limited liability company is:

Elliott Creek LLC

2. The street address of the initial registered office is:

425 South Holmes, Idaho Falls, ID 83401

and the name of the initial registered agent at the above address is:

Scott P. Eskelson

3. The mailing address for future correspondence is:

425 South Holmes, Idaho Falls, ID 83401

4. Management of the limited liability company will be vested in:

Manager(s) ☒ or Member(s) ☐ (please check the appropriate box)

5. If management is to be vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is to be vested in the member(s), list the name(s) and address(es) of at least one initial member.

Name

Address

William H. Anderson

2417 W. Main, Bozeman, MT 59718

6. Signature of at least one person responsible for forming the limited liability company:

Signature: [Signature]

Typed Name: William H. Anderson

Capacity: Manager

Signature: _____

Typed Name: _____

Capacity: _____

Secretary of State use only

g:\completeme\LLC forms\llc formation\organization.pdf
Revised 07/2002

Web Form

IDAHO SECRETARY OF STATE
06/22/2006 05:00
CK: NONE CT: 113824 BH: 961363
1 @ 100.00 = 100.00 ORGAN LLC # 2

W51967

WATER USE AGREEMENT

This agreement is made and entered into this 26th day of March, 2007, by and between Elliot Creek, LLC, a limited liability company whose address is 2917 W. Main Street, 1st, hereafter referred to as "Elliot Creek", and Bates Ranch, LLC, a limited liability company whose address is 1022 S. Cook St., Denver, CO, hereafter referred to as "Bates Ranch",

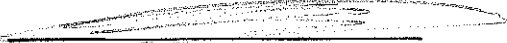
WITNESSETH:

That for and in consideration of the payment by Elliot Creek to Bates Ranch in the sum of fifty Dollars (\$ 50), and other good and valuable consideration, receipt whereof is hereby acknowledged by Bates Ranch, the parties hereto agree as follows:

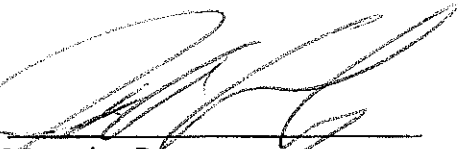
1. Elliot Creek has filed four (4) applications with the Idaho Department of Water Resources to appropriate rights to construct small dikes on its property in Section 22, T4N., R45E., for the purpose of raising water levels to create ponds for aesthetic and fish and wildlife habitat improvement purposes. It has been determined that one of the requirements will be to provide enough water from an existing valid water right to offset the volume of water to be stored in each pond the first time, by drying up the number of acres irrigated in one irrigation season which would have required diversion of the equivalent volume of water for such irrigation. The total amount of water required to fill said proposed ponds one time is 26.84 acre feet. At the rate of 3.0 acre feet per acre annual water volume requirement to raise a crop, this would require drying up 8.94 acres of irrigated ground for one irrigation season.
2. Bates Ranch is the owner of the S½ SE¼, Sec. 20, T5N., R45E., in Teton County, Idaho, and is the holder of portions of Water Rights Nos. 22-677 and 22-4189 which are appurtenant thereto for the irrigation of 33 acres of said land. Bates Ranch hereby agrees to reduce applications of irrigation water under said rights on said land by 26.84 acre feet by not irrigating 8.94 acres of said irrigated lands for one irrigation season, from April 1, 2007, through October 31, 2007, and to authorize Elliot Creek to use 26.84 acre feet of water to fill the above referenced ponds the first time in exchange therefore.
3. The provisions of this agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

ELLIOT CREEK, LLC

By: 
Its: Managing Partner

BATES RANCH, LLC

By: 
Its: Managing Partner

WATER USE AGREEMENT

This agreement is made and entered into this 26th day of March, 2007, by and between Elliot Creek Ranch, LLC, a limited liability company whose address is 1025 S. Cook St. Denver
CO, hereafter referred to as "Elliot Creek Ranch", and Bates Ranch, LLC, a limited liability company whose address is 1025 S. Cook St. Denver CO, hereafter referred to as "Bates Ranch",

WITNESSETH:

That for and in consideration of the payment by Elliot Creek Ranch to Bates Ranch in the sum of 50 Dollars (\$ 50), and other good and valuable consideration, receipt whereof is hereby acknowledged by Bates Ranch, the parties hereto agree as follows:

1. Elliot Creek Ranch has filed an application with the Idaho Department of Water Resources to appropriate rights to construct small dikes on its property in Section 21, T4N., R45E., for the purpose of raising water levels to create ponds for aesthetic and fish and wildlife habitat improvement purposes. It has been determined that one of the requirements will be to provide enough water from an existing valid water right to offset the volume of water to be stored in each pond the first time, by drying up the number of acres irrigated in one irrigation season which would have required diversion of the equivalent volume of water for such irrigation. The total amount of water required to fill said proposed ponds one time is 11.6 acre feet. At the rate of 3.0 acre feet per acre annual water volume requirement to raise a crop, this would require drying up 3.87 acres of irrigated ground for one irrigation season.
2. Bates Ranch is the owner of the S½ SE¼, Sec. 20, T5N., R45E., in Teton County, Idaho, and is the holder of portions of Water Rights Nos. 22-677 and 22-4189 which are appurtenant thereto for the irrigation of 33 acres of said land. Bates Ranch hereby agrees to reduce applications of irrigation water under said rights on said land by 11.6 acre feet by not irrigating 3.87 acres of said irrigated lands for one irrigation season, from April 1, 2007, through October 31, 2007, and to authorize Elliot Creek Ranch to use 11.6 acre feet of water to fill the above referenced ponds the first time in exchange therefore.
3. The provisions of this agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

ELLIOT CREEK RANCH, LLC

By: 

Its: Managing Partner

BATES RANCH, LLC

By: 

Its: Managing Partner



Elliott Creek Water Rights Budget and Narrative
ELLIOTT CREEK, LLC, PARCEL A, PONDS 5, 6, & 7
2-27-2007

The following tables are calculations of historic and proposed consumptive use on the Elliott Creek LLC (EC) Property. The data used in the calculations is based on an IDWR Study on Potential Evapotranspiration, "*Allen, Richard G. and Clarence W. Robison, 2006. Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho*, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID. 145 p." Table "**Driggs, ID Evapotranspiration**" is attached listing specific potential evapotranspiration rates for the ground cover specific to EC.

A jurisdictional wetland study completed during November 2004 on the EC property was used to determine areas of each type of ground cover to compare the historic ground cover and proposed ground cover. Table "**Elliott Creek – Ponds 5, 6, 7, Parcels B and C**" is attached which compares consumptive use between historic and proposed ground cover. The table used the surface area of each type of ground cover with the corresponding evapotranspiration rate to calculate the consumptive use on a monthly, growing season, and annual basis.

The conclusion for the EC property, Ponds 5, 6, & 7, is that there was no significant change between the historic consumptive use and the proposed consumptive use. Specifically, with proposed roads the consumptive use decreased 0.0083 cfs and with out roads, the consumptive use decreased 0.0015 CFS during the growing season (May – September). Both changes in consumptive use are not significant.

Table "**Elliott Creek – Ponds 5, 6, 7, Parcels B and C**" also shows the irrigated acreage required to be taken out of production for filling the pond. The acreage required is 5.07 acres.

William H. Anderson, P.E.

